

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE: VALSARTAN, LOSARTAN, AND
IRBESARTAN PRODUCTS LIABILITY
LITIGATION

No. 1:19-md-2875-RBK
Hon. Robert Kugler

This document relates to: All Actions

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs submit this notice in connection with Class Plaintiffs' Motion for Class Certification currently pending before this Court. *See* ECF 1747.

On September 19, 2022, the court in *In re Namenda Indirect Purchaser Antitrust Litigation*, No. 1:15-cv-6549, 2022 WL 4298767 (S.D.N.Y. Sept. 19, 2022) (Exhibit A hereto) denied the defendants' motion to decertify an earlier-certified multi-state class of indirect purchasers (specifically, third-party payors) of prescription drugs. The defendants there, like Defendants here, argued among other things that variations in state consumer protection laws and class-wide damages issues pertaining to "government subsidies" and "rebates and discounts" warranted decertification.

The *Namenda* court disagreed, and re-affirmed its earlier finding that common issues predominated over individual ones. As to class-wide damages, the court

stated: “[a]ggregate damages are perfectly permissible in this case.” *Id.* at *8. As to variations in state laws, the court stated: “[v]ariation among the state laws as to enhanced damages is manageable...Courts routinely certify multistate class actions brought under state antitrust and consumer protection statutes[.]” *Id.* at *11.

Notably, the *Namenda* court’s decision directly contradicts Defendants’ argument at the last CMC here, at which they argued (incorrectly) that an earlier *Namenda* opinion suggested variations in state law preclude certification or present intractable choice-of-law issues for trial.

Dated: October 13, 2022

Respectfully submitted,

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MDL Plaintiffs' Co-Lead Counsel

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of October, 2022, I caused a true and correct copy of the foregoing to be filed and served upon all counsel of record by operation of the Court's CM/ECF system.

/s/ David J. Stanoch

David J. Stanoch